

IN THE SENATE

SENATE BILL NO. 1005

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-501, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS; AMENDING SECTION 20-502, IDAHO CODE, TO DEFINE A TERM AND TO REVISE DEFINITIONS; AMENDING SECTION 20-503, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 20-504, IDAHO CODE, TO PROVIDE THE DEPARTMENT OF JUVENILE CORRECTIONS WITH ADDITIONAL DUTIES, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS AND TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 20-504A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO STATE JUVENILE CORRECTIONS CENTERS, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS AND TO REMOVE A DEFINITION; AMENDING SECTION 20-505, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE APPLICATION OF THE JUVENILE CORRECTIONS ACT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-507, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER, TO REVISE PROVISIONS RELATING TO THE COURT'S RETENTION OF JURISDICTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-508, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-509, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-511, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-511A, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-515, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-516, IDAHO CODE, TO REVISE AND PROVIDE PROVISIONS RELATING TO THE APPREHENSION, RELEASE AND DETENTION OF JUVENILES AND JUVENILE OFFENDERS AND TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-517, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS AND TO REVISE PROVISIONS RELATING TO DETENTION ACCOMMODATIONS FOR JUVENILE OFFENDERS; AMENDING SECTION 20-518, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS, TO REVISE TERMINOLOGY AND TO REQUIRE ADDITIONAL STANDARDS FOR JUVENILE DETENTION FACILITIES; AMENDING SECTION 20-520, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO REVISE PROVISIONS RELATING TO SENTENCING A JUVENILE OFFENDER; AMENDING SECTION 20-521, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-522, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-524, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO REMOVE CERTAIN PROVISIONS RELATING TO CHILD SUPPORT ORDERS AND DECREES; AMENDING SECTION 20-524A, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-525, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-525A, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SEC-

TION 20-526, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS; AMENDING SECTION 20-528, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-530, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS; AMENDING SECTION 20-531, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS; AMENDING SECTION 20-532, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-532A, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-533, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-533A, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-535, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS; AMENDING SECTION 20-539A, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-542, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS; AMENDING SECTION 20-547, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 20-548, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS; AMENDING SECTION 20-549, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO REVISE PROVISIONS RELATING TO CURFEW VIOLATIONS; AND AMENDING SECTION 39-1202, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 20-501, Idaho Code, be, and the same is hereby amended to read as follows:

20-501. LEGISLATIVE INTENT. (1) It is the policy of the state of Idaho that the juvenile corrections system will be based on the following principles: accountability; community protection; and competency development. Where a juvenile has been found to be within the purview of the juvenile corrections act, the court shall impose a sentence that will protect the community, hold the juvenile offender accountable for his actions, and assist the juvenile offender in developing skills to become a contributing member of a diverse community. It is the further policy of the state of Idaho that the parents or other legal guardians of the juvenile offender participate in the accomplishment of these goals through participation in counseling and treatment designed to develop positive parenting skills and an understanding of the family's role in the juvenile's offender's behavior. It is the further intent of the legislature that the parents or legal guardians of the juvenile offender be held accountable, where appropriate, through monetary reimbursement for supervision and confinement of the juvenile offender, and restitution to victims of the juvenile's offender's delinquent acts. In enacting this legislation, the legislature finds that the juvenile corrections system should encompass the following aspects: day treatment, community programs, observation and assessment programs, probation services, secure facilities, after-care and assistance to counties for juveniles offenders not committed to the custody of the department of juvenile corrections.

1 (2) The following is a brief description of what the legislature in-
2 tends to become the components of Idaho's juvenile corrections system:

3 (a) Probation. Probation officers would have twenty-four (24) hour
4 on call responsibility for juveniles offenders and would monitor their
5 activities on a continual basis. Probation officers would be responsi-
6 ble for assisting juveniles offenders and their families in accessing
7 counseling or treatment resources, close supervision of juveniles'
8 offenders' activities, supervision of restitution and coordination of
9 other services provided to juveniles offenders. Juvenile offenders or-
10 dered into the custody of the department of juvenile corrections would
11 be monitored by a county probation officer.

12 (b) Day treatment. Day treatment programs would be time limited non-
13 residential treatment and educational programs. Included in these
14 programs would be trackers who would provide intensive supervision of
15 juveniles offenders through daily contact and by counseling juveniles
16 offenders regarding employment, education, courts, family and life
17 skills. Nonresidential alcohol and drug programs would provide outpa-
18 tient assessment and counseling for juveniles offenders with substance
19 abuse problems.

20 (c) Community programs. It is intended that community programs would
21 exist throughout the state to provide twenty-four (24) hour residential
22 supervision and treatment options to juveniles offenders in close prox-
23 imity to their families and their community. It is intended that these
24 programs would strengthen the juvenile's offender's relationship with
25 family, engender a commitment to school and employment, promote the
26 development of competency and life skills and help juveniles offenders
27 generalize appropriate behavior into their environment.

28 (d) Observation and assessment. Regional observation and assessment
29 centers would be provided, either directly or on a contract basis, to
30 conduct observation and assessment of the juvenile offender in a short-
31 term residential experience. It is intended that these programs would
32 maintain standardized home and daily routines with intensive daily pro-
33 gramming.

34 (e) Secure facilities. Secure facilities would provide secure con-
35 finement, discipline, education and treatment of the most seriously
36 delinquent juveniles offenders. Programs at the secure facilities
37 would be designed to help juveniles offenders recognize accountabil-
38 ity for delinquent behavior by confronting and eliminating delinquent
39 norms, criminal thinking and antisocial behavior and making restitu-
40 tion to victims through community service or other restitution pro-
41 grams.

42 (3) It is the further intent of the legislature that the primary pur-
43 pose of this act is to provide a continuum of programs which emphasize the ju-
44 venile offender's accountability for his actions while assisting him in the
45 development of skills necessary to function effectively and positively in
46 the community in a manner consistent with public safety. These services and
47 programs will individualize treatment and control of the juvenile offender
48 for the benefit of the juvenile offender and the protection of society. It is
49 legislative intent that the department of juvenile corrections be operated
50 within the framework of the following principles to accomplish this mission:

(1a) Provide humane, disciplined confinement to a juvenile offender who presents a danger to the community.

(2b) Strengthen opportunities for the juvenile's offender's development of competency and life skills by expanding the juvenile's offender's access to applicable programs and community resources.

(3c) Hold juveniles offenders accountable for their delinquent behavior through such means as victim restitution, community service programs and the sharing of correctional costs.

(4d) Invoke the participation of the juvenile offender's parent or legal guardian in assisting the juvenile offender to recognize and accept responsibility for his delinquent or other antisocial behavior and hold the parent or legal guardian accountable, where appropriate, through the payment of detention costs and restitution to victims and through attendance at programs for the development of positive parenting skills designed to promote a functional relationship between the juvenile offender and his family.

(5e) Develop efficient and effective juvenile correctional programs within the framework of professional correctional standards, legislative intent and available resources.

(6f) Provide for a diversity of innovative and effective programs through research on delinquent behavior and the continuous evaluation of correctional programs.

(7g) Assist counties in developing meaningful programs for juveniles offenders who have come into the juvenile corrections system but who have not been committed to the custody of the department of juvenile corrections.

(8h) Provide programs to increase public awareness of the mission of the juvenile corrections system and encourage public participation in developing an effective juvenile corrections system designed to aid in reducing juvenile crime in this state.

(9i) Develop and maintain a statewide juvenile offender information system.

SECTION 2. That Section 20-502, Idaho Code, be, and the same is hereby amended to read as follows:

20-502. DEFINITIONS. When used in this chapter, unless the context otherwise requires:

(1) "Adult" means a person eighteen (18) years of age or older.

(2) "Commit" means to transfer legal custody.

(3) "Community-based program" means an in-home confinement program or a nonsecure or staff secure residential or nonresidential program operated to supervise and provide competency development to juvenile offenders in the least restrictive setting, consistent with public safety, operated by the state or under contract with the state or by the county.

(4) "Contract provider" means a residential or nonresidential program under contract with the department to supervise juvenile offenders in department custody, provide accountability and competency development in the least restrictive setting, consistent with public safety.

(5) "Court" means any district court within the state of Idaho, or magistrate's division thereof.

(56) "Department" means the state department of juvenile corrections.

(67) "Detention" means the temporary placement of juveniles who require secure custody for their own or the community's protection in physically restricting facilities.

~~(7) "Detention center" means a facility established pursuant to sections 20-517 and 20-518, Idaho Code.~~

(8) "Director" means the director of the department of juvenile corrections.

(9) "Diversion" means the utilization of local community resources, churches, counseling for the juvenile offender and/or family, substance abuse counseling, informal probation, community service work, voluntary restitution, or any other available service or program as an alternative to the filing of a petition with the juvenile court.

(10) "Judge" means a district judge or a magistrate.

(11) "Juvenile" means a person less than eighteen (18) years of age or who was less than eighteen (18) years of age at the time of any alleged act, omission or status ~~bringing the person within the purview of this chapter.~~

(12) ~~"Juvenile corrections~~ correctional center" means any state-operated ~~secure residential facility wherever located or facility operated under contract with the state that provides twenty-four (24) hour supervision and confinement for juvenile offenders committed to the custody of the department.~~

(13) "Juvenile detention center" means a secure facility established pursuant to the provisions of sections 20-517 and 20-518, Idaho Code, and that complies with IDAPA 05.01.02.

(134) "Juvenile offender" means a person under the age of eighteen (18) years, committed by the court to the custody, care and jurisdiction of the department for confinement in a secure or community-based facility following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult or who was under the age of eighteen (18) years at the time of any act, omission or status, and who has been adjudicated as being within the purview of this chapter.

(145) "Legal custody" means the relationship created by the court's decree which imposes upon the custodian responsibilities of physical possession of the juvenile offender, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care.

(156) "Legal guardian" means a person appointed as guardian of a minor under the laws of Idaho. For the purposes of this chapter, legal guardian does not include and shall not be construed to include the owner, operator or the agent of an owner or operator of a detention center, observation and assessment center, secure facility, residential facility or other facility having temporary or long-term physical custody of the juvenile offender.

(167) "Observation and assessment program" means any state-operated or purchased service program responsible for temporary custody of juvenile offenders for observation and assessment.

(178) "Secure facility" means any architecturally secure ~~state-operated residential facility or facility operated under contract with the state~~ which provides twenty-four (24) hour supervision and confinement for juvenile offenders committed to the custody of the department.

1 (189) "Staff secure facility" means a non-architecturally secure res-
 2 idential facility with awake staff twenty-four (24) hours a day, seven (7)
 3 days a week for intensive supervision of juveniles offenders.

4 (20) "Status offense" means an act that is a criminal offense based
 5 solely on the fact that the person committing the act is a juvenile. Status
 6 offenses include, but are not limited to, running away from or being beyond
 7 control of parents, a guardian or a legal custodian, truancy, possession of
 8 alcohol or tobacco and curfew violations.

9 (1921) "Work program" means a public service work project which employs
 10 juvenile offenders at a reasonable wage for the purpose of reimbursing vic-
 11 tims of the juvenile offender's delinquent behavior.

12 SECTION 3. That Section 20-503, Idaho Code, be, and the same is hereby
 13 amended to read as follows:

14 20-503. DEPARTMENT OF JUVENILE CORRECTIONS CREATED -- APPOINTMENT OF
 15 DIRECTOR -- POWERS AND DUTIES OF DEPARTMENT. (1) The department of juvenile
 16 corrections is hereby created. The department shall, for the purposes of
 17 section 20, article IV, of the constitution of the state of Idaho, be an exec-
 18 utive department of the state government.

19 (2) The department shall be under the control and supervision of a di-
 20 rector, who shall be appointed by the governor, with the advice and consent
 21 of the senate. The director shall exercise all of the powers and duties nec-
 22 essary to carry out the proper administration of the department and may dele-
 23 gate duties to employees and officers of the department. The director shall
 24 have the authority to employ an attorney or attorneys to provide legal ser-
 25 vices to the department and such managers, assistants, clerical staff and
 26 other employees necessary to the proper functioning and administration of
 27 the department.

28 (3) The department of juvenile corrections shall be composed of such
 29 administrative units as may be established by the director for the proper and
 30 efficient administration of the powers and duties assigned to the director
 31 or the department. The director shall appoint an administrator for each ad-
 32 ministrative unit within the department.

33 (4) The director shall have full power and authority to do all things
 34 necessary to establish and provide for the administration and operation of
 35 the department of juvenile corrections and to accomplish an orderly transi-
 36 tion to the department of juvenile corrections and the counties of the duties
 37 and responsibilities for juvenile offenders and the juvenile justice system
 38 being performed by the department of health and welfare. It is intended that
 39 the director and staff of the department of health and welfare work coopera-
 40 tively with the director and staff of the department of juvenile corrections
 41 and the counties in this effort, while continuing with their duties to juve-
 42 nile offenders in the custody of the department of health and welfare until
 43 the official transfer of such duties to the department of juvenile correc-
 44 tions and the counties on October 1, 1995.

45 (5) Effective October 1, 1995, all existing commitments to the depart-
 46 ment of health and welfare made pursuant to section 16-1814(1)6., Idaho
 47 Code, are hereby transferred to the department of juvenile corrections. All
 48 powers, duties and functions with respect to those commitments are hereby
 49 transferred from the department of health and welfare to the department of

~~juvenile corrections. The director of the department of juvenile corrections shall have all the powers and duties as may have been or could have been exercised by his predecessors in law pursuant to these commitments and he shall be the successor in law to those commitment duties without regard to the language of individual judicial orders of commitment for the juveniles.~~

SECTION 4. That Section 20-504, Idaho Code, be, and the same is hereby amended to read as follows:

20-504. DUTIES OF THE DEPARTMENT OF JUVENILE CORRECTIONS. (1) The department shall have jurisdiction over all juveniles offenders committed to it pursuant to chapter 5, title 20, Idaho Code.

(2) The department shall have legal custody over all juvenile offenders committed to it by the courts of this state for confinement. The department shall not have legal guardianship of any juvenile offender.

(3) The department is responsible for all juvenile offenders committed to it by the courts of this state for confinement. The department shall also establish minimum standards for detention, care and certification of approved detention facilities based upon such standards.

(34) The department shall establish and administer all secure residential facilities including all state juvenile corrections centers.

(45) The department shall make all decisions regarding placement of juvenile offenders committed to it in the most appropriate program for supervision and treatment.

(56) The department shall establish an observation and assessment process for juvenile offenders committed to it by a court.

(67) The department shall establish liaison services with the counties or within the department's regions.

(78) The department may establish and operate work programs designed to employ juvenile offenders committed to it in public service work projects for the purpose of reimbursing victims of the juvenile offender's delinquent behavior.

(89) The department is hereby authorized and may place juveniles offenders committed to it pursuant to this chapter in a community-based or private program; provided, that the person, agency or association operating the facility or program has been approved and has otherwise complied with all applicable state and local laws.

(910) The department shall establish minimum standards for the operation of all private residential and nonresidential facilities and programs which provide services to juvenile offenders committed to the department. The standards shall be no more stringent than standards imposed for facilities operated by the department or for detention facilities operated by counties.

(101) The department shall provide technical assistance to counties establishing research-based programs for juveniles offenders who either have been found to come under the purview of this chapter or who have had their case informally diverted pursuant to section 20-511, Idaho Code, and who have not been committed to the legal custody of the department.

(112) The department shall have authority to adopt such administrative rules pursuant to the procedures provided in chapter 52, title 67, Idaho

1 Code, as are deemed necessary or appropriate for the functioning of the de-
2 partment and the implementation and administration of this act.

3 (123) Subject to any competitive bidding requirements otherwise pro-
4 vided by law, the department shall have authority to enter into contracts
5 with a private association or organization or other public agency or organi-
6 zation for the inspection and licensure of detention facilities.

7 (134) Subject to any competitive bidding requirements otherwise pro-
8 vided by law, the department shall have authority to enter into contracts
9 with private providers or local governmental agencies for the confinement or
10 other permanent or temporary placement of juveniles offenders committed to
11 its custody.

12 (145) The department shall have authority to apply for, receive and
13 expend federal funds, subject to appropriation by the legislature. The
14 department shall have authority to establish guidelines for and administer
15 the distribution of state juvenile corrections act funds to counties for the
16 employment and training of county probation officers, the establishment of
17 secure and nonsecure residential or nonresidential facilities and programs
18 for juvenile offenders. The department may require that a county provide
19 matching funds as a condition of receiving juvenile corrections act funds.
20 The department, by rule, in cooperation with the courts and the counties,
21 shall establish uniform standards for county juvenile probation services,
22 as well as qualifications for and standards for the training of juvenile
23 probation officers.

24 ~~(15) All of the powers and duties imposed upon or granted to the director~~
25 ~~of the department of health and welfare or the board of health and welfare~~
26 ~~pursuant to chapter 18, title 16, Idaho Code, are hereby transferred to the~~
27 ~~director of the department of juvenile corrections. The director shall have~~
28 ~~all such powers and duties as may have been or could have been exercised by~~
29 ~~his predecessors in law with respect to chapter 18, title 16, Idaho Code, and~~
30 ~~shall be the successor in law to all contractual obligations entered into by~~
31 ~~his predecessor in law.~~

32 SECTION 5. That Section 20-504A, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 20-504A. STATE JUVENILE CORRECTIONS CENTERS -- PURPOSES -- POWERS AND
35 DUTIES OF THE DEPARTMENT AND THE DIRECTOR. (1) The purposes of a juvenile
36 corrections center shall be:

37 (a) The care, control and competency development of adjudicated juve-
38 nile offenders meeting standards for admission as adopted by the Idaho
39 supreme court;

40 (b) The provision pursuant to agreement with the counties of detention
41 services for juveniles offenders subject to administrative or court or-
42 der;

43 (c) The provision of observation and assessment services for juveniles
44 offenders committed to the department of juvenile corrections; and

45 (d) To accept for placement those individuals sentenced to a state ju-
46 venile corrections center by a district court, or pursuant to agreement
47 with the board of correction, subsequent to waiver of juvenile court ju-
48 risdiction.

1 (2) The department shall administer and provide general oversight of
 2 all state juvenile corrections centers and any other secure or nonsecure fa-
 3 cilities holding juvenile offenders committed to it as required by the juve-
 4 nile corrections act.

5 (3) The department shall assure that the educational programs of state
 6 juvenile corrections centers are in compliance with educational standards
 7 ~~for secure juvenile facilities~~ which are approved by the Idaho state board of
 8 education or an accrediting association recognized by the Idaho state board
 9 of education.

10 (4) The department shall have the power to promulgate rules in accor-
 11 dance with the provisions of chapter 52, title 67, Idaho Code, for the admin-
 12 istration and operation of state juvenile corrections centers.

13 (5) The director shall have the power:

14 (a) To employ, fix the salary and prescribe the duties of a superinten-
 15 dent for each juvenile corrections center. The superintendent shall be
 16 a nonclassified employee and shall serve at the pleasure of the direc-
 17 tor. With the advice of the director, the superintendent may appoint
 18 and prescribe the duties of assistants, instructors, specialists and
 19 other employees required for the operation of the center;

20 (b) To remove any employee of a juvenile corrections center for cause or
 21 as allowed by chapter 53, title 67, Idaho Code;

22 (c) To ensure that all teachers, except specialists, hold teaching
 23 certificates issued under the authority of the state board of education
 24 which are valid for the grades and subjects taught. All specialists
 25 shall hold diplomas from an accredited school of their specialty;

26 (d) To have, at all times, general supervision and control of all prop-
 27 erty, real and personal, appertaining to the center, and to insure the
 28 same; and

29 (e) To expend tax moneys appropriated, or otherwise placed to the
 30 credit of the center for maintenance and operation and to account for
 31 the same as prescribed by law.

32 ~~(6) Wherever the term "State Youth Training Center" or "State Youth~~
 33 ~~Services Center" shall appear in the Idaho Code it shall mean any state juve-~~
 34 ~~nile corrections center.~~

35 SECTION 6. That Section 20-505, Idaho Code, be, and the same is hereby
 36 amended to read as follows:

37 20-505. JURISDICTION. Subject to the prior jurisdiction of the United
 38 States, the court shall have exclusive, original jurisdiction over any juve-
 39 nile and over any adult who was a juvenile at the time of any act, omission or
 40 status, in the county in which the juvenile resides, or in the county in which
 41 the act, omission or status allegedly took place, in the following cases:

42 (1) Where the act, omission or status occurs in the state of Idaho and is
 43 prohibited by federal, state, local or municipal law or ordinance by reason
 44 of minority only;

45 (2) Where the act or omission occurs in the state of Idaho and is a vio-
 46 lation of any federal, state, local or municipal law or ordinance which would
 47 be a crime if committed by an adult;

1 (3) Concerning any juvenile where the juvenile comes under the purview
2 of the interstate compact ~~on~~ for juveniles as set forth in chapter 19, title
3 16, Idaho Code;

4 (4) This chapter shall not apply to juvenile violators of beer, wine or
5 other alcohol and tobacco laws; except that a juvenile violator under the age
6 of eighteen (18) years at the time of the violation may, at the discretion of
7 the court, be treated under the provisions of this chapter;

8 (5) This chapter shall not apply to the ~~violent~~ juvenile offenders who
9 are transferred for criminal prosecution as adults, as defined in this chap-
10 ter;

11 (6) This chapter shall not apply to juvenile violators of traffic, wa-
12 tercraft, fish and game, failure to obey a misdemeanor citation and criminal
13 contempt laws; except that a juvenile violator under the age of eighteen (18)
14 years at the time of such violation may, at the discretion of the court, be
15 treated under the provisions of this chapter;

16 (7) This chapter shall not apply to juvenile sex offenders who violate
17 the provisions of section 18-8414, Idaho Code.

18 SECTION 7. That Section 20-507, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 20-507. RETENTION OF JURISDICTION. Jurisdiction obtained by the court
21 in the case of a juvenile offender shall be retained by it for the purposes
22 of this act until he becomes twenty-one (21) years of age, unless terminated
23 prior thereto. If a juvenile offender under the jurisdiction of the court
24 and after attaining eighteen (18) years of age, is charged with a ~~felony~~
25 crime, he shall be treated as any other adult offender. If a person eighteen
26 (18) years of age or older already under court jurisdiction is convicted of a
27 ~~felony crime~~, ~~that~~ conviction shall terminate the jurisdiction of the court,
28 provided, however, that nothing herein contained shall prohibit any court
29 from proceeding as provided in section 20-508(2), Idaho Code.

30 SECTION 8. That Section 20-508, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 20-508. WAIVER OF JURISDICTION AND TRANSFER TO OTHER COURTS. (1) After
33 the filing of a petition and after full investigation and hearing, the court
34 may waive jurisdiction under the juvenile corrections act over the juvenile
35 and order that the juvenile be held for adult criminal proceedings when:

36 (a) A juvenile is alleged to have committed any of the crimes enumerated
37 in section 20-509, Idaho Code; or

38 (b) A juvenile is alleged to have committed an act other than those enu-
39 merated in section 20-509, Idaho Code, after the child became fourteen
40 (14) years of age which would be a crime if committed by an adult; or

41 (c) An adult at the time of the filing of the petition is alleged to have
42 committed an act prior to his having become eighteen (18) years of age
43 which would be a felony if committed by an adult, and the court finds
44 that the adult is not committable to an institution for people with
45 intellectual disabilities or mental illness, is not treatable in any
46 available institution or facility available to the state designed for

1 the care and treatment of juveniles, or that the safety of the community
2 requires the adult continue under restraint; or

3 (d) An adult already under the jurisdiction of the court is alleged to
4 have committed a crime while an adult.

5 (2) A motion to waive jurisdiction under the juvenile corrections act
6 and prosecute a juvenile under the criminal law may be made by the prosecut-
7 ing attorney, the juvenile, or by motion of the court upon its own initia-
8 tive. The motion shall be in writing and contain the grounds and reasons in
9 support thereof.

10 (3) Upon the filing of a motion to waive jurisdiction under the juvenile
11 corrections act, the court shall enter an order setting the motion for hear-
12 ing at a time and date certain and shall order a full and complete investi-
13 gation of the circumstances of the alleged offense to be conducted by county
14 probation, or such other agency or investigation officer designated by the
15 court.

16 (4) Upon setting the time for the hearing upon the motion to waive ju-
17 risdiction, the court shall give written notice of said hearing to the juve-
18 nile, and the parents, guardian or custodian of the juvenile, and the prose-
19 cuting attorney, at least ten (10) days before the date of the hearing, or a
20 lesser period stipulated by the parties, and such notice shall inform the ju-
21 venile and the parents, guardian or custodian of the juvenile of their right
22 to court appointed counsel. Service of the notice shall be made in the manner
23 prescribed for service of a summons under section 20-512, Idaho Code.

24 (5) The hearing upon the motion to waive jurisdiction shall be held in
25 the same manner as an evidentiary hearing upon the original petition and
26 shall be made part of the record.

27 (6) If as a result of the hearing on the motion to waive jurisdiction
28 the court shall determine that jurisdiction should not be waived, the peti-
29 tion shall be processed in the customary manner as a juvenile corrections act
30 proceeding. However, in the event the court determines, as a result of the
31 hearing, that juvenile corrections act jurisdiction should be waived and the
32 juvenile should be prosecuted under the criminal laws of the state of Idaho,
33 the court shall enter findings of fact and conclusions of law upon which it
34 bases such decision together with a decree waiving juvenile corrections act
35 jurisdiction and binding the juvenile over to the authorities for prosecu-
36 tion under the criminal laws of the state of Idaho.

37 (7) No motion to waive juvenile corrections act jurisdiction shall be
38 recognized, considered, or heard by the court in the same case once the court
39 has entered an order or decree in that case that said juvenile has come within
40 the purview of the juvenile corrections act, and all subsequent proceedings
41 after the decree finding the juvenile within the purview of the act must be
42 under and pursuant to the act and not as a criminal proceeding.

43 (8) In considering whether or not to waive juvenile court jurisdiction
44 over the juvenile, the juvenile court shall consider the following factors:

45 (a) The seriousness of the offense and whether the protection of the
46 community requires isolation of the juvenile beyond that afforded by
47 juvenile facilities;

48 (b) Whether the alleged offense was committed in an aggressive, vio-
49 lent, premeditated, or willful manner;

1 (c) Whether the alleged offense was against persons or property,
2 greater weight being given to offenses against persons;

3 (d) The maturity of the juvenile as determined by considerations of his
4 home, environment, emotional attitude, and pattern of living;

5 (e) The juvenile's record and previous history of contacts with the ju-
6 venile corrections system;

7 (f) The likelihood that the juvenile will develop competency and life
8 skills to become a contributing member of the community by use of facil-
9 ities and resources available to the court;

10 (g) The amount of weight to be given to each of the factors listed in
11 subsection (8) of this section is discretionary with the court, and a
12 determination that the juvenile is not a fit and proper subject to be
13 dealt with under the juvenile court law may be based on any one (1) or
14 a combination of the factors set forth above, which shall be recited in
15 the order of waiver.

16 (9) If the court does not waive jurisdiction and order a juvenile or
17 adult held for criminal proceedings, the court in a county other than the ju-
18 venile's or adult's home county, after entering a decree that the juvenile
19 or adult is within the purview of this chapter, may certify the case for sen-
20 tencing to the court of the county in which the juvenile offender or adult
21 resides upon being notified that the receiving court is willing to accept
22 transfer. In the event of a transfer, which should be made unless the court
23 finds it contrary to the interest of the juvenile offender or adult, the ju-
24 risdiction of the receiving court shall attach to the same extent as if the
25 court had original jurisdiction.

26 (10) Upon conviction of a juvenile offender held for adult criminal pro-
27 ceedings under this section, the sentencing judge may, if a finding is made
28 that adult sentencing measures would be inappropriate:

29 (a) Sentence the convicted person in accordance with the juvenile sen-
30 tencing options set forth in this chapter; or

31 (b) Sentence the convicted person to the county jail or to the custody
32 of the state board of correction but suspend the sentence or withhold
33 judgment pursuant to section 19-2601, Idaho Code, and commit the de-
34 fendant to the custody of the department of juvenile corrections for an
35 indeterminate period of time in accordance with section 20-520(1)(r),
36 Idaho Code. The court, in its discretion, may order that the suspended
37 sentence or withheld judgment be conditioned upon the convicted per-
38 son's full compliance with all reasonable program requirements of the
39 department of juvenile corrections. Such a sentence may also set terms
40 of probation, which may be served under the supervision of county juve-
41 nile probation. However, in no event may the total of the actual time
42 spent by the convicted person in the custody of the department plus any
43 adult sentence imposed by the court exceed the maximum period of impris-
44 onment that could be imposed on an adult convicted of the same crime.

45 (c) If a convicted person is given a suspended sentence or withheld
46 judgment conditioned upon the convicted person's compliance with all
47 reasonable program requirements of the department pursuant to para-
48 graph (b) of this subsection, and if the department reasonably believes
49 that the convicted person is failing to comply with all reasonable pro-
50 gram requirements, the department may petition the sentencing court to

1 revoke the commitment to the department and transfer the convicted per-
 2 son to the county jail or to the custody of the state board of correction
 3 for the remainder of the sentence.

4 SECTION 9. That Section 20-509, Idaho Code, be, and the same is hereby
 5 amended to read as follows:

6 20-509. VIOLENT OFFENSES, CONTROLLED SUBSTANCES VIOLATIONS NEAR
 7 SCHOOLS AND OFFENDERS. (1) Any juvenile, age fourteen (14) years to age eigh-
 8 teen (18) years, who is alleged to have committed any of the following crimes
 9 or any person under age fourteen (14) years who is alleged to have committed
 10 any of the following crimes and, pursuant to section 20-508, Idaho Code, has
 11 been ordered by the court to be held for adult criminal proceedings:

- 12 (a) Murder of any degree or attempted murder;
- 13 (b) Robbery;
- 14 (c) Rape as defined in section 18-6101, Idaho Code;
- 15 (d) Male rape as defined in section 18-6108, Idaho Code;
- 16 (e) Forcible sexual penetration by the use of a foreign object;
- 17 (f) Infamous crimes against nature, committed by force or violence;
- 18 (g) Mayhem;
- 19 (h) Assault or battery with the intent to commit any of the above seri-
 20 ous felonies;
- 21 (i) A violation of the provisions of section 37-2732(a)(1)(A), (B) or
 22 (C), Idaho Code, when the violation occurred on or within one thousand
 23 (1,000) feet of the property of any public or private primary or sec-
 24 ondary school, or in those portions of any building, park, stadium or
 25 other structure or grounds which were, at the time of the violation, be-
 26 ing used for an activity sponsored by or through such a school;
- 27 (j) Arson in the first degree and aggravated arson;

28 shall be charged, arrested and proceeded against by complaint, indictment
 29 or information as an adult. All other felonies or misdemeanors charged in
 30 the complaint, indictment or information, which are based on the same act
 31 or transaction or on one (1) or more acts or transactions as the violent
 32 or controlled substances offense shall similarly be charged, arrested and
 33 proceeded against as an adult. Any juvenile proceeded against pursuant to
 34 this section shall be accorded all constitutional rights, including bail and
 35 trial by jury, and procedural safeguards as if that juvenile were an adult
 36 defendant.

37 (2) Once a juvenile has been formally charged or indicted pursuant to
 38 this section or has been transferred for criminal prosecution as an adult
 39 pursuant to the waiver provisions of section 20-508, Idaho Code, or this sec-
 40 tion, the juvenile shall be held in a county jail or other adult prison facil-
 41 ity unless the court, after finding good cause, orders otherwise.

42 (3) Except as otherwise allowed by subsection (4) of this section,
 43 once a juvenile offender has been found to have committed the offense for
 44 which the juvenile offender was charged, indicted or transferred pursuant
 45 to this section or section 20-508, Idaho Code, or has been found guilty or
 46 pled guilty to a lesser offense or amended charge growing out of or included
 47 within the original charge, whether or not such lesser offense or amended
 48 charge is included within the acts enumerated in subsection (1) of this sec-
 49 tion, the juvenile offender shall thereafter be handled in every respect as

1 an adult. For any subsequent violation of Idaho law, the juvenile offender
2 shall be handled in every respect as an adult.

3 (4) Upon the conviction of a juvenile offender pursuant to this sec-
4 tion, the sentencing judge may, if a finding is made that adult sentencing
5 measures would be inappropriate:

6 (a) Sentence the convicted person in accordance with the juvenile sen-
7 tencing options set forth in this chapter; or

8 (b) Sentence the convicted person to the county jail or to the custody
9 of the state board of correction but suspend the sentence or withhold
10 judgment pursuant to section 19-2601, Idaho Code, and commit the de-
11 fendant to the custody of the department of juvenile corrections for an
12 indeterminate period of time in accordance with section 20-520(1)(r),
13 Idaho Code. The court, in its discretion, may order that the suspended
14 sentence or withheld judgment be conditioned upon the convicted per-
15 son's full compliance with all reasonable program requirements of the
16 department of juvenile corrections. Such a sentence may also set terms
17 of probation, which may be served under the supervision of county juve-
18 nile probation. However, in no event may the total of the actual time
19 spent by the convicted person in the custody of the department plus any
20 adult sentence imposed by the court exceed the maximum period of impris-
21 onment that could be imposed on an adult convicted of the same crime.

22 (c) If a convicted person is given a suspended sentence or withheld
23 judgment conditioned upon the convicted person's compliance with all
24 reasonable program requirements of the department pursuant to para-
25 graph (b) of this subsection, and if the department reasonably believes
26 that the convicted person is failing to comply with all reasonable pro-
27 gram requirements, the department may petition the sentencing court to
28 revoke the commitment to the department and transfer the convicted per-
29 son to the county jail or to the custody of the state board of correction
30 for the remainder of the sentence.

31 SECTION 10. That Section 20-511, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 20-511. DIVERSION OR INFORMAL DISPOSITION OF THE PETITION. (1) Prior
34 to the filing of any petition under this act, the prosecuting attorney may
35 request a preliminary inquiry from the county probation officer to determine
36 whether the interest of the public or the juvenile requires a formal court
37 proceeding. If court action is not required, the prosecuting attorney may
38 utilize the diversion process and refer the case directly to the county pro-
39 bation officer or a community-based diversion program for informal proba-
40 tion and counseling. If community service is going to be utilized pursuant
41 to this subsection, the prosecuting attorney shall collect a fee of sixty
42 cents (60¢) per hour for each hour of community service work the juvenile is
43 going to perform and remit the fee to the state insurance fund for the pur-
44 pose of securing worker's compensation insurance for the juvenile offender
45 performing community service. However, if a county is self-insured and pro-
46 vides worker's compensation insurance for persons performing community ser-
47 vice pursuant to the provisions of this chapter, then remittance to the state
48 insurance fund is not required.

1 (2) After the petition has been filed and where, at the admission or de-
 2 nial hearing, the juvenile offender admits to the allegations contained in
 3 the petition, the court may decide to make an informal adjustment of the pe-
 4 tition. Informal adjustment includes, but is not limited to:

- 5 (a) Reprimand of the juvenile offender;
- 6 (b) Informal supervision with the probation department;
- 7 (c) Community service work;
- 8 (d) Restitution to the victim;
- 9 (e) Participation in a community-based diversion program.

10 (3) Information uniquely identifying the juvenile offender, the of-
 11 fense, and the type of program utilized shall be forwarded to the department.
 12 This information shall be maintained by the department in a statewide ju-
 13 venile offender information system. Access to the information shall be
 14 controlled by the department, subject to the provisions of section 9-342,
 15 Idaho Code.

16 Such informal adjustment of the petition shall be conducted in the man-
 17 ner prescribed by the Idaho juvenile rules. When an informal adjustment
 18 is made pursuant to this section and the juvenile offender is to perform
 19 community service work, the court shall assess the juvenile offender a fee
 20 of sixty cents (60¢) per hour for each hour of community service work the
 21 juvenile offender is to perform. This fee shall be remitted by the court to
 22 the state insurance fund for the purpose of securing worker's compensation
 23 insurance for the juvenile offender performing community service. However,
 24 if a county is self-insured and provides worker's compensation insurance
 25 for persons performing community service pursuant to the provisions of this
 26 chapter, then remittance to the state insurance fund is not required.

27 SECTION 11. That Section 20-511A, Idaho Code, be, and the same is hereby
 28 amended to read as follows:

29 20-511A. MENTAL HEALTH ASSESSMENTS AND PLANS OF TREATMENT. (1) A judge
 30 of any court shall order the department of health and welfare to submit ap-
 31 propriate mental health assessments and a plan of treatment for the court's
 32 approval if at any stage of a proceeding under this chapter or the child pro-
 33 tective act, chapter 16, title 16, Idaho Code, a judge has reason to believe,
 34 based upon the record and proceedings of the court or upon an affidavit of a
 35 party, state or county agency or any person having physical custody of the
 36 juvenile or juvenile offender, that the juvenile or juvenile offender:

- 37 (a) Is suffering a substantial increase or persistence of a serious
 38 emotional disturbance as defined in section 16-2403, Idaho Code, which
 39 impairs his or her ability to comply with the orders and directives of
 40 the court, or which presents a risk to ~~the juvenile's~~ his or her safety
 41 or well-being or the safety of others; and
- 42 (b) Such condition has not been adequately addressed with supportive
 43 services and/or corrective measures previously provided to the juve-
 44 nile, or the juvenile's needs with respect to the serious emotional dis-
 45 turbance are not being met or have not been met.

46 (2) The court may convene a screening team consisting of representa-
 47 tives from the department of health and welfare, county probation, local
 48 school officials, teen early intervention specialists as provided for un-
 49 der section 16-2404A, Idaho Code, the department of juvenile corrections

1 and/or other agencies or persons designated by the court to review the plan
 2 of treatment and provide written recommendations to the court. Parents
 3 and guardians of the juvenile or juvenile offender, if available, shall
 4 be included in the screening team and consulted with regard to the plan of
 5 treatment.

6 (3) If the court, after receiving the mental health assessment and plan
 7 of treatment submitted by the department of health and welfare and any recom-
 8 mendations from the screening team, determines that additional information
 9 is necessary to determine whether the conditions set forth in subsections
 10 (1) (a) and (1) (b) of this section are present, or to determine an appropriate
 11 plan of treatment for the juvenile or juvenile offender, the court may order
 12 an evaluation and/or recommendations for treatment to be furnished by a psy-
 13 chiatrist, licensed physician or licensed psychologist, with the expenses
 14 of such evaluation and/or recommendations to be borne by the department of
 15 health and welfare.

16 (4) If the court concludes that the conditions set forth in subsections
 17 (1) (a) and (1) (b) of this section are present, the plan of treatment, as
 18 approved by the court, shall be entered into the record as an order of the
 19 court. The department of health and welfare shall provide mental health
 20 treatment as designated by the approved plan of treatment. If in-patient
 21 or residential treatment is required as part of the plan of treatment, the
 22 court shall hold a hearing on whether to order such treatment unless the
 23 hearing is waived by the juvenile or juvenile offender and ~~the juvenile's~~ his
 24 or her parents or guardians. The court may order parents, legal guardians
 25 or custodians to adhere to the treatment designated in the plan of treat-
 26 ment. Representatives from the department of health and welfare, county
 27 probation, local school officials, teen early intervention specialists as
 28 provided for under section 16-2404A, Idaho Code, the department of juvenile
 29 corrections and/or other agencies or persons designated by the court shall
 30 attend case review hearings as scheduled by the court.

31 (5) All costs associated with assessment and treatment shall be the re-
 32 sponsibility of the parents of the juvenile or juvenile offender according
 33 to their ability to pay based upon the sliding fee scale established pur-
 34 suant to section 16-2433, Idaho Code. The financial obligation of the family
 35 shall be determined after consideration of all available payment and fund-
 36 ing sources including title XIX of the social security act, as amended, all
 37 available third party sources, and parent resources according to any order
 38 for child support under chapter 10, title 32, Idaho Code. Services shall not
 39 be conditioned upon transfer of custody or parental rights.

40 SECTION 12. That Section 20-515, Idaho Code, be, and the same is hereby
 41 amended to read as follows:

42 20-515. FAILURE TO OBEY SUMMONS, A CONTEMPT -- WARRANT. If any person
 43 summoned as herein provided shall, without reasonable cause, fail to appear,
 44 he may be proceeded against for contempt of court. In case the summons cannot
 45 be served, or the parties served fail to obey the same, or in any case when
 46 it shall be made to appear to the judge that the service will be ineffectual,
 47 or that the welfare of the juvenile or juvenile offender requires that he be
 48 brought forthwith into the custody of the court, a warrant or a capias may be
 49 issued for the parent, guardian or the juvenile or juvenile offender.

SECTION 13. That Section 20-516, Idaho Code, be, and the same is hereby amended to read as follows:

20-516. APPREHENSION AND RELEASE OF JUVENILES -- DETENTION. (1) A peace officer may take a juvenile into custody, or a private citizen may detain a juvenile until the juvenile can be delivered forthwith into the custody of a peace officer, without order of the court:

(a) When he has reasonable cause to believe that the juvenile has committed an act which would be a misdemeanor or felony if committed by an adult; or

(b) When in the presence of a peace officer or private citizen the juvenile has violated any local, state or federal law or municipal ordinance; or

(c) When there are reasonable grounds to believe the juvenile has committed a status offense. ~~Status offenses are truancy, running away from or being beyond the control of parents, guardian, or legal custodian and curfew violations.~~ Status offenders shall not be placed in any jail or juvenile detention facility but instead may be placed in juvenile shelter care facilities, except in the case of runaways, when:

(i) There is a specific detention request from a foreign jurisdiction outside the state of Idaho to hold the juvenile pending transportation arrangements or arrangements through the interstate compact for juveniles; or

(ii) There is a specific detention request from a jurisdiction within the state of Idaho. Upon such request, the juvenile may be placed in a juvenile detention center for a period not to exceed twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays. The court may order an extension of this detention period to allow for transportation arrangements for a period not to exceed an additional twenty-four (24) hours.

(2) A peace officer may take a juvenile into custody upon a written order or warrant signed by a judge. The judge may issue the order or warrant after finding that there is reasonable cause to believe that the juvenile comes within the purview of this chapter. Such taking into custody shall not be deemed an arrest. Jurisdiction of the court shall attach from the time the juvenile is taken into custody. When an officer takes a juvenile into custody, he shall notify the parent, guardian or custodian of the juvenile as soon as possible. Unless otherwise ordered by the court, or unless it appears to the officer taking the juvenile into custody that it is contrary to the welfare of society or the juvenile, such juvenile shall be released to the custody of his parent or other responsible adult upon written promise, signed by such person, to bring the juvenile to the court at a stated time. Such written promise shall be submitted to the court as soon as possible. If such person shall fail to produce the juvenile as agreed, or upon notice from the court, a summons for such person may be issued by the court and a warrant may be issued for apprehension of the juvenile.

(3) A juvenile taken into custody may be fingerprinted and photographed. Any fingerprints and photographs taken shall be forwarded as provided in subsection (8) of this section. If the court finds good cause it may order any fingerprints and photographs expunged.

(4) When a juvenile is not released he shall be taken forthwith to the court or place of detention specified by the court and then not later than twenty-four (24) hours, excluding Saturdays, Sundays and holidays, shall be brought before the court for a detention hearing to determine where the juvenile will be placed until the next hearing. ~~Status offenders shall not be placed in any jail facility, but instead may be placed in juvenile shelter care facilities.~~

Placements may include, but are not limited to, the following:

- (a) Parents of the juvenile;
- (b) Relatives of the juvenile;
- (c) Foster care;
- (d) Group care;
- (e) A juvenile detention facility; or
- (f) Community-based diversion programs.

(5) The person in charge of a detention facility shall give immediate notice to the court that the juvenile is in his custody.

(6) No juvenile shall be held in detention longer than twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, unless a petition has been filed and the court has signed the detention order.

(7) As soon as a juvenile is detained by court order, his parents, guardian or legal custodian shall be informed by notice in writing on forms prescribed by the court that they may have a prompt hearing regarding release or detention.

(8) A juvenile taken into detention for an offense shall be fingerprinted and photographed. Fingerprints and photographs taken of juveniles shall be forwarded to the appropriate law enforcement agency and filed with the bureau of criminal identification of the Idaho state police which shall create a juvenile offender fingerprint file and enter the fingerprint data into the automated fingerprint identification system. ~~The fingerprint data shall then be forwarded to the department to be maintained in a statewide juvenile offender information system. Access to the information in the juvenile offender system shall be controlled by the department, subject to the provisions of section 9-342, Idaho Code.~~ If the court finds good cause it may order the fingerprints and photographs of the juvenile offender expunged.

(9) Peace officers' records of juveniles shall be kept separate from records of adults and shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 14. That Section 20-517, Idaho Code, be, and the same is hereby amended to read as follows:

20-517. DETENTION ACCOMMODATIONS. (1) The county commissioners shall provide a detention facility for the detention of juveniles or juvenile offenders to be conducted by the court, or, subject to the approval of the court, by other appropriate public agency, provided that such detention shall comply with the provisions of section 20-518, Idaho Code; or within the limits of funds provided by the county commissioners ~~the court may arrange for the use of private homes for such detention, subject to the supervision of the court or other agency, or may arrange with any institution or agency to receive for temporary care and custody juveniles within the jurisdiction of the court, provided said private individual or agency facilities, except~~

1 ~~relatives of the juvenile, shall meet the licensing requirements as provided~~
 2 ~~in this chapter for care of juveniles. Nothing herein shall prevent a jail~~
 3 ~~facility from being utilized as a detention facility if it complies with the~~
 4 ~~provisions of section 20-518, Idaho Code.~~

5 (2) For the purpose of carrying out the provisions of this section,
 6 the county commissioners may enter into contracts or agreements with pub-
 7 lic or private agencies, individuals, other counties, or the department of
 8 juvenile corrections which may include the expenditures of moneys outside
 9 the county boundaries. If the county in which the court is located has made
 10 an agreement with another governmental unit or agency located outside the
 11 county or the judicial district for the detention of juveniles or juvenile
 12 offenders under this act, then any court in the county may order a juvenile
 13 or juvenile offender detained outside of the county or outside of the judi-
 14 cial district in the detention facility described in such agreement. All
 15 detention facilities provided for in this section shall comply with IDAPA
 16 11.11.02 and section 20-518, Idaho Code.

17 (3) The county wherein any court has entered an order for the detention
 18 of a juvenile offender outside of the county or outside of the judicial dis-
 19 trict as provided by subsection (2) of this section shall pay all direct and
 20 indirect costs of the detention of the juvenile offender to the governmental
 21 unit or agency owning or operating the detention facility in which the juve-
 22 nile offender was detained. The amount of such cost may be determined ~~on a~~
 23 ~~per day per juvenile basis~~ by agreement between the county wherein the court
 24 entered the order of detention and the county or governmental unit or agency
 25 owning or operating such detention facility.

26 (4) All funds appropriated by the state for the planning and design of
 27 regional detention facilities shall be administered and distributed by the
 28 director of the department of administration for the planning and design of
 29 regional detention facilities in accordance with the requirements or direc-
 30 tives of such appropriation. In administering such fund, the director of the
 31 department of administration shall consult with the designated county offi-
 32 cials of every county involved or affected by a proposed regional detention
 33 facility and shall abide by the decision of the designated representatives
 34 of each of the counties so involved or affected.

35 SECTION 15. That Section 20-518, Idaho Code, be, and the same is hereby
 36 amended to read as follows:

37 20-518. STANDARDS FOR DETENTION. The following shall be minimum stan-
 38 dards for the detention of juveniles or juvenile offenders provided for in
 39 section 20-517, Idaho Code:

40 (1) Juvenile detention facilities must be so constructed and/or main-
 41 tained as to keep juveniles detainees segregated from adult offenders or
 42 those being treated as adult offenders under section 20-508 or 20-509, Idaho
 43 Code, with there to be no contact as to sight and/or sound between the two (2)
 44 classes.

45 (2) Juvenile detention facilities must provide supervision and obser-
 46 vation of juvenile detainees sufficient to protect the physical and mental
 47 health of the detainees.

48 (3) Juveniles detainees held in detention must be provided with at
 49 least three (3) adequate and nutritional meals per day.

(4) Juveniles detainees held in detention must have access to reading materials on a regular and systematic basis. Detained juveniles may receive books, newspapers and periodicals from any source including delivery to the detention facilities by family members, subject to the right of detention authorities to inspect and remove dangerous or harmful materials. Detention authorities may forbid the introduction into holding quarters of obscene books or periodicals.

(5) A visiting program shall be established in juvenile detention facilities which will allow for family visits to each juvenile for at least two (2) hours each week.

(6) The juvenile detention facility shall meet the standards and rules set forth in IDAPA 05.01.02 and IDAPA 11.11.02.

(7) Notwithstanding any other provision in this chapter, the minimum standards set forth herein shall not apply to any person who attains his or her eighteenth birthday prior to beginning or while in detention. When such person attains his or her eighteenth birthday, he or she shall be transferred from juvenile detention to the county jail.

SECTION 16. That Section 20-520, Idaho Code, be, and the same is hereby amended to read as follows:

20-520. SENTENCING. (1) Upon the entry of an order finding the juvenile offender is within the purview of the act, the court shall then hold a sentencing hearing in the manner prescribed by the Idaho juvenile rules to determine the sentence that will promote accountability, competency development and community protection. Prior to the entry of an order disposing of the case, other than an order of discharge or dismissal, the court may request and, if requested, shall receive a report containing the results of an inquiry into the home environment, past history, competency development, prevention or out of home placement services provided, and the social, physical and mental condition of the juvenile offender. The court shall not consider or review the report prior to the entry of an order of adjudication. Upon presentation and consideration of the report by the court, the court may proceed to sentence the juvenile offender as follows:

(a) Place the juvenile offender on formal probation for a period not to exceed three (3) years from the date of the order, except the court may place a juvenile offender on formal probation for a period not to exceed the juvenile's offender's twenty-first birthday if the court finds that the juvenile offender has committed a crime of a sexual nature;

(b) Sentence the juvenile offender to detention pursuant to this act for a period not to exceed thirty (30) days for each act, omission or status which is prohibited by the federal, state, local or municipal law or ordinance by reason of minority only, ~~The sentence shall not which can only be executed unless when the court finds that the act, omission or status is in violation of section 922(x) of title 18, United States Code, or the court finds that the juvenile offender is an habitual status offender as defined in section 20-521, Idaho Code, or has violated the court's decree imposing the sentence as provided below.~~

If the court, after notice and hearing, finds that a juvenile offender has violated the court's decree imposing the sentence under circumstances that bring the violation under the valid court order ex-

1 ception of the federal juvenile justice and delinquency prevention act
2 of 1974, as amended, the court may commit the juvenile offender to de-
3 tention for the period of detention previously imposed at sentencing;

4 (c) Commit the juvenile offender to a period of detention, pursuant to
5 this act, for a period of time not to exceed ninety (90) days for each
6 unlawful or criminal act the juvenile is found to have committed, if
7 the unlawful or criminal act would be a misdemeanor if committed by an
8 adult, ~~or where the juvenile has been adjudicated as an habitual status~~
9 ~~offender;~~

10 (d) If the juvenile offender has committed an unlawful or criminal act
11 which would be a felony if committed by an adult, the court may commit
12 the juvenile offender to detention for a period not to exceed one hun-
13 dred eighty (180) days for each unlawful or criminal act;

14 (e) Whenever a court commits a juvenile offender to a period of de-
15 tention ~~at the juvenile detention facility~~ shall notify the school
16 district where the detention facility is located. No juvenile who is
17 found to come within the purview of the act for the commission of a sta-
18 tus offense shall be sentenced to detention in a jail facility unless
19 an adjudication has been made that the juvenile offender is an habitual
20 status offender;

21 (f) Commit the juvenile offender to detention and suspend the sentence
22 on specific probationary conditions;

23 (g) The court may suspend or restrict the juvenile's offender's driving
24 privileges for such periods of time as the court deems necessary, and
25 the court may take possession of the juvenile's offender's driver's li-
26 cense. The juvenile offender may request restricted driving privileges
27 during a period of suspension, which the court may allow if the juvenile
28 offender shows by a preponderance of evidence that driving privileges
29 are necessary for his employment or for family health needs;

30 (h) The court may order that the juvenile offender be examined or
31 treated by a physician, surgeon, psychiatrist or psychologist, or that
32 he receive other special care, or that he submit to an alcohol or drug
33 evaluation, if needed, and for such purposes may place the juvenile
34 offender in a hospital or other suitable facility;

35 (i) The court may order that the department of health and welfare
36 conduct a comprehensive substance abuse assessment of the juvenile
37 offender. After receiving the comprehensive substance abuse assess-
38 ment, and upon a finding by the court that treatment will provide a
39 cost-effective means of achieving the sentencing goals of accountabil-
40 ity, competency development and community protection, the court may
41 order that the juvenile offender receive immediate treatment for sub-
42 stance abuse in keeping with a plan of treatment approved by the court.
43 The initial cost of the assessment and treatment shall be borne by the
44 department of health and welfare. The director of the department of
45 health and welfare may promulgate rules consistent with this paragraph

46 (i) to establish a schedule of fees to be charged to parents by the de-
47 partment of health and welfare for such services based upon the cost of
48 the services and the ability of parents to pay;

49 (j) In support of an order under the provisions of this section, the
50 court may make an additional order setting forth reasonable conditions

1 to be complied with by the parents, the juvenile offender, his legal
2 guardian or custodian, or any other person who has been made a party to
3 the proceedings, including, but not limited to, restrictions on visi-
4 tation by the parents or one (1) parent, restrictions on the juvenile's
5 offender's associates, occupation and other activities, and require-
6 ments to be observed by the parents, guardian or custodian;

7 (k) The court may make any other reasonable order which is in the best
8 interest of the juvenile offender or is required for the protection of
9 the public, except that no person under the age of eighteen (18) years
10 may be committed to jail, prison or a secure facility which does not meet
11 the standards set forth in section 20-518, Idaho Code, unless jurisdic-
12 tion over the individual is in the process of being waived or has been
13 waived pursuant to section 20-508 or 20-509, Idaho Code. The court may
14 combine several of the above-listed modes of disposition where they are
15 compatible;

16 (l) An order under the provisions of this section for probation or
17 placement of a juvenile offender with an individual or an agency may
18 provide a schedule for review of the case by the court;

19 (m) Order the proceeding expanded or altered to include consideration
20 of the cause pursuant to chapter 16, title 16, Idaho Code;

21 (n) Order the case and all documents and records connected therewith
22 transferred to the magistrate division of the district court for the
23 county where the juvenile offender and/or parents reside if different
24 than the county where the juvenile offender was charged and found to
25 have committed the unlawful or criminal act, for the entry of a disposi-
26 tional order;

27 (o) Order such other terms, conditions, care or treatment as appears to
28 the court will best serve the interests of the juvenile offender and the
29 community;

30 (p) The court shall assess a twenty dollar (\$20.00) detention/proba-
31 tion training academy fee against the juvenile for every petition filed
32 where there has been an adjudication that the juvenile is within the
33 purview of this chapter. All moneys raised pursuant to this paragraph
34 shall be transmitted by the court for deposit in the juvenile correc-
35 tions fund which is created in section 20-542, Idaho Code;

36 (q) Additionally, the court shall assess a fee of sixty cents (60¢)
37 per hour of community service against the juvenile offender for every
38 petition filed where there has been an adjudication that the juvenile
39 offender is within the purview of this chapter and the court is ordering
40 community service. Such fee is to be remitted by the court to the state
41 insurance fund for purposes of providing worker's compensation insur-
42 ance for persons performing community service pursuant to this chapter.
43 However, if a county is self-insured and provides worker's compensation
44 insurance for persons performing community service pursuant to the pro-
45 visions of this chapter, then remittance to the state insurance fund is
46 not required;

47 (r) Commit the juvenile offender to the legal custody of the depart-
48 ment of juvenile corrections for an indeterminate period of time not to
49 exceed the juvenile's offender's nineteenth birthday, unless the cus-
50 tody review board determines that extended time in custody is necessary

1 to address competency development, accountability, and community pro-
 2 tection; provided however, that no juvenile offender shall remain in
 3 the custody of the department beyond the juvenile's offender's twenty-
 4 first birthday. The department shall adopt rules implementing the cus-
 5 tody review board and operations and procedures of such board;

6 (s) Notwithstanding any other provision of this section, a court may
 7 not commit a juvenile offender under the age of ten (10) years to a pe-
 8 riod of detention or to the custody of the department of juvenile cor-
 9 rections for placement in secure confinement.

10 (2) When an order is entered pursuant to this section, the juvenile
 11 offender shall be transported to the facility or program so designated by the
 12 court or the department, as applicable, by the sheriff of the county where
 13 the juvenile offender resides or is committed, or by an appointed agent.
 14 When committing a juvenile offender to the department, or another entity,
 15 the court shall at once forward to the department or entity a certified copy
 16 of the order of commitment.

17 (3) Unless the court determines that an order of restitution would be
 18 inappropriate or undesirable, it shall order the juvenile offender or his
 19 parents or both to pay restitution to or make whole any victim who suffers an
 20 economic loss as a result of the juvenile's offender's conduct in accordance
 21 with the standards and requirements of sections 19-5304 and 19-5305, Idaho
 22 Code. The amount of restitution which may be ordered by the court shall not
 23 be subject to the limitations of section 6-210, Idaho Code. Court-ordered
 24 restitution shall be paid prior to any other court-ordered payments unless
 25 the court specifically orders otherwise. The clerk of the district court,
 26 with the approval of the administrative district judge, may use the proce-
 27 dures set forth in section 19-4708, Idaho Code, for the collection of the
 28 restitution.

29 (4) The court may order the juvenile's offender's parents, legal
 30 guardian or custodian to pay the charges imposed by community programs or-
 31 dered by the court for the juvenile offender, or the juvenile's offender's
 32 parents, legal guardian or custodian.

33 (5) Any parent, legal guardian or custodian violating any order of the
 34 court entered against the person under the provisions of this chapter shall
 35 be subject to contempt proceedings under the provisions of chapter 6, title
 36 7, Idaho Code.

37 SECTION 17. That Section 20-521, Idaho Code, be, and the same is hereby
 38 amended to read as follows:

39 20-521. HABITUAL STATUS OFFENDER. (1) Any juvenile offender who has
 40 been adjudicated for commission of two (2) status offenses within twelve
 41 (12) months may be charged, petitioned and adjudicated as an habitual sta-
 42 tus offender for the third status offense committed within that twelve (12)
 43 month period.

44 (2) The court may utilize any dispositional alternative for an habitual
 45 status offender that is detailed in section 20-520, Idaho Code, except that
 46 the juvenile offender shall not be placed in ~~the~~ an Idaho juvenile correc-
 47 tions center.

1 SECTION 18. That Section 20-522, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 20-522. JURISDICTION OVER PARENTS. Whenever a juvenile offender is
4 found to come under the purview of this chapter, the court shall have ju-
5 risdiction and authority to have the juvenile offender and the juvenile's
6 offender's parent(s), legal guardian or custodian sign a probationary
7 contract with the court containing terms and conditions that the juve-
8 nile offender and the juvenile's offender's parent(s), legal guardian or
9 custodian must adhere to as a condition of the juvenile's offender's pro-
10 bation. The probationary contract may provide that upon a violation or
11 breach of the terms and conditions of the probationary contract, the juve-
12 nile's offender's parent(s), legal guardian or custodian shall be liable to
13 the court for a specific monetary sum not in excess of one thousand dollars
14 (\$1,000) for the breach of contract. All such moneys shall be payable to
15 the court and shall be in addition to any other fines, penalties or other
16 sanctions provided by law. Any moneys received by the court pursuant to
17 this section shall be paid into the juvenile corrections fund created in
18 section 20-542, Idaho Code. In lieu of or in addition to a monetary payment,
19 the court may order that the parent(s), legal guardian or custodian attend
20 parenting classes or undergo other treatment or counseling. Any person vi-
21 olating any order of the court entered under the provisions of this section
22 shall be subject to contempt proceedings under the provisions of chapter 6,
23 title 7, Idaho Code.

24 SECTION 19. That Section 20-524, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 20-524. SUPPORT OF JUVENILE OR JUVENILE OFFENDER -- REIMBURSEMENT FOR
27 COSTS INCURRED. (1) Whenever a juvenile or juvenile offender is placed by
28 the court in custody other than that of ~~the juvenile's~~ his or her parents,
29 guardian or custodian, after due notice to the parent, guardian or other
30 persons legally obligated to care for and support the juvenile or juvenile
31 offender, and after a hearing, the court may order and decree that the parent
32 or other legally obligated person shall pay in such a manner as the court
33 may direct a reasonable sum that will cover in whole or in part the support
34 and treatment of the juvenile or juvenile offender. If the parent or other
35 legally obligated person willfully fails or refuses to pay such sum, the
36 court may proceed against him for contempt, or the order may be filed and
37 shall have the effect of a civil judgment.

38 (2) If the juvenile or juvenile offender is detained, the court may or-
39 der that the parents or other legal guardian of the juvenile or juvenile of-
40 fender contribute to the costs of detention in an amount to be set by the
41 court. The order may be filed and shall have the effect of a civil judgment.
42 It is the intent of the legislature that foster parents or a parent or legal
43 guardian receiving public assistance relating to that juvenile or juvenile
44 offender should not benefit from the continued receipt of payments or public
45 assistance from any state or federal agency while the juvenile or juvenile
46 offender is detained. The department of health and welfare is directed to
47 promulgate a rule implementing this intent.

~~(3) All child support orders shall notify the obligor that the order will be enforced by income withholding pursuant to chapter 12, title 32, Idaho Code.~~

~~(4) Failure to include these provisions does not affect the validity of the support order or decree. The court shall require that the social security numbers of both the obligor and obligee be included in the order or decree.~~

SECTION 20. That Section 20-524A, Idaho Code, be, and the same is hereby amended to read as follows:

20-524A. PAYMENT OF DETENTION COSTS. If the juvenile offender is committed to the custody of the department of juvenile corrections pursuant to chapter 5, title 20, Idaho Code, the department shall reimburse the county for the period of time in excess of five (5) calendar days during which the juvenile offender is housed at a detention facility. This time period shall begin to run on the first business day the department receives a copy of the order of commitment, executed by the court. Orders received by the department after 3 o'clock p.m., mountain standard time, on a business day, will be considered to have been received the next business day. Facsimile transmissions of the order are acceptable.

SECTION 21. That Section 20-525, Idaho Code, be, and the same is hereby amended to read as follows:

20-525. RECORDS -- PRIVILEGED INFORMATION. (1) The court shall maintain records of all cases brought before it. In proceedings under this act the following juvenile courtroom proceedings and records shall be open to the public: all proceedings against a juvenile offender of the age of fourteen (14) years or older and who is petitioned or charged with an offense which would be a felony if committed by an adult including the court docket, petitions, complaints, information, arraignments, trials, sentencings, probation violation hearings and dispositions, motions and other papers filed in any case in any district; transcripts of testimony taken by the court; and findings, verdicts, judgments, orders, decrees and other papers filed in proceedings before the court of any district.

(2) Juvenile courtroom proceedings and records shall remain confidential when the court and the prosecutor agree extraordinary circumstances exist that justify records of a juvenile offender of the age of fourteen (14) years or older and who is petitioned or charged with an offense which would be a felony if committed by an adult should remain confidential because it is in the best interest of the juvenile offender.

(3) In proceedings under this act the following records and court proceedings of juveniles offenders of the age of thirteen (13) years or younger shall not be withheld from public inspection, except on court order, which order must be made in writing in each case: the court docket, petitions, complaints, information, arraignments, trials, sentencings, probation violation hearings and dispositions, motions and other papers filed in any case in any district; transcripts of testimony taken by the court; and findings, verdicts, judgments, orders, decrees and other papers filed in proceedings before the court of any district.

1 (4) These records shall be open to inspection according to chapter 3,
2 title 9, Idaho Code. All information obtained and social records prepared in
3 the discharge of official duty by an employee of the court shall be subject to
4 disclosure according to chapter 3, title 9, Idaho Code.

5 (5) The victim of misconduct shall always be entitled to the name of the
6 juvenile offender involved, the name of the juvenile's offender's parents
7 or guardian, and their addresses and telephone numbers, if available in the
8 records of the court.

9 (6) Notwithstanding the other provisions of this act and notwithstanding
10 any order entered pursuant hereto, nothing in this act shall prohibit the
11 exchange of records created pursuant to this act between prosecuting attor-
12 neys or courts in this state.

13 SECTION 22. That Section 20-525A, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 20-525A. EXPUNGEMENT OF RECORD -- HEARING -- FINDINGS NECESSARY --
16 SPECIAL INDEX -- EFFECT OF ORDER. (1) Any person who has been adjudicated in
17 a case under this act and found to be within the purview of the act for having
18 committed a felony offense or having been committed to the department of ju-
19 venile corrections may, after the expiration of five (5) years from the date
20 of termination of the continuing jurisdiction of the court, or, in case the
21 juvenile offender was committed to the juvenile corrections center, five (5)
22 years from the date of his release from the juvenile corrections center, or
23 after reaching age eighteen (18), whichever occurs last, petition the court
24 for the expungement of his record. Upon the filing of the petition, the court
25 shall set a date for a hearing and shall notify the prosecuting attorney of
26 the pendency of the petition and of the date of the hearing. The prosecuting
27 attorney and any other person who may have relevant information about the
28 petitioner may testify at the hearing.

29 (2) Any person who has been adjudicated in a case under this act and
30 found to be within the purview of the act for having committed misdemeanor or
31 status offenses only and not having been committed to the department of ju-
32 venile corrections may, after the expiration of one (1) year from the date
33 of termination of the continuing jurisdiction of the court or after reaching
34 age eighteen (18) years, whichever occurs later, petition the court for the
35 expungement of his record. Upon the filing of the petition, the court shall
36 set a date for a hearing and shall notify the prosecuting attorney of the pen-
37 dency of the petition and the date of the hearing. The prosecuting attorney
38 and any other person who may have relevant information about the petitioner
39 may testify at the hearing.

40 (3) In any case where the prosecuting attorney has elected to utilize
41 the diversion process or the court orders an informal adjustment pursuant to
42 section 20-511, Idaho Code, the person may, after the expiration of one (1)
43 year from the date of termination of the continuing jurisdiction of the court
44 or after reaching age eighteen (18) years, whichever occurs later, petition
45 the court for the expungement of his record. Upon the filing of the peti-
46 tion, the court shall set a date for a hearing and shall notify the prosecut-
47 ing attorney of the pendency of the petition and the date of the hearing. The
48 prosecuting attorney and any other person who may have relevant information
49 about the petitioner may testify at the hearing.

1 (4) The court may not expunge a conviction for any of the following
 2 crimes from a juvenile's offender's record:

- 3 (a) Administering poison with intent to kill (18-4014, Idaho Code);
- 4 (b) Aggravated battery (18-907, Idaho Code);
- 5 (c) Armed robbery (chapter 65, title 18, Idaho Code);
- 6 (d) Arson (chapter 8, title 18, Idaho Code);
- 7 (e) Assault with intent to commit a serious felony (18-909, Idaho
- 8 Code);
- 9 (f) Assault with intent to murder (18-4015, Idaho Code);
- 10 (g) Assault or battery upon certain personnel, felony (18-915, Idaho
- 11 Code);
- 12 (h) Forcible sexual penetration by use of a foreign object (18-6608,
- 13 Idaho Code);
- 14 (i) Infamous crime against nature, committed by force or violence (18-
- 15 6605, Idaho Code);
- 16 (j) Injury to child, felony (18-1501, Idaho Code);
- 17 (k) Kidnapping (18-4501, Idaho Code);
- 18 (l) Murder of any degree (18-4001 and 18-4003, Idaho Code);
- 19 (m) Rape, excluding statutory rape (18-6101 and 18-6108, Idaho Code);
- 20 (n) Ritualized abuse of a child (18-1506A, Idaho Code);
- 21 (o) Sexual exploitation of a child (18-1507, Idaho Code);
- 22 (p) Unlawful use of destructive device or bomb (18-3320, Idaho Code);
- 23 (q) Voluntary manslaughter (18-4006 1., Idaho Code);
- 24 (r) A violation of the provisions of section 37-2732(a) (1) (A), (B) or
- 25 (C), Idaho Code, when the violation occurred on or within one thousand
- 26 (1,000) feet of the property of any public or private primary or sec-
- 27 ondary school, or in those portions of any building, park, stadium or
- 28 other structure or grounds which were, at the time of the violation, be-
- 29 ing used for an activity sponsored by or through such a school;
- 30 (s) A violation of the provisions of section 37-2732B, Idaho Code, re-
- 31 lated to drug trafficking or manufacturing of illegal drugs.

32 (5) If the court finds after hearing that the petitioner has not been
 33 adjudicated as a juvenile offender for any of the crimes identified in
 34 subsection (4) of this section, and has not been convicted of a felony, or
 35 of a misdemeanor wherein violence toward another person was attempted or
 36 committed since the termination of the court's jurisdiction or his release
 37 from the juvenile corrections center, and that no proceeding involving such
 38 felony or misdemeanor is pending or being instituted against him, and if the
 39 court further finds to its satisfaction that the petitioner has been held
 40 accountable, is developing life skills necessary to become a contributing
 41 member of the community and that the expungement of the petitioner's record
 42 will not compromise public safety, it shall order all records in the peti-
 43 tioner's case in the custody of the court and all such records, including law
 44 enforcement investigatory reports and fingerprint records, in the custody
 45 of any other agency or official sealed; and shall further order all refer-
 46 ences to said adjudication, diversion or informal adjustment removed from
 47 all indices and from all other records available to the public. However, a
 48 special index of the expungement proceedings and records shall be kept by the
 49 court ordering expungement, which index shall not be available to the public
 50 and shall be revealed only upon order of a court of competent jurisdiction.

1 Copies of the order shall be sent to each agency or official named in the
2 order. Upon the entry of the order the proceedings in the petitioner's case
3 shall be deemed never to have occurred and the petitioner may properly reply
4 accordingly upon any inquiry in the matter. Inspection of the records may
5 thereafter be permitted only by the court upon petition by the person who is
6 the subject of the records or by any other court of competent jurisdiction,
7 and only to persons named in the petition.

8 SECTION 23. That Section 20-526, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 20-526. ENCOURAGING VIOLATIONS. Any person who by any act or neglect
11 encourages, aids or causes a juvenile to come within the purview or jurisdic-
12 tion of this chapter, or who after notice that the driving privileges of the
13 juvenile offender have been suspended or restricted under the provisions of
14 this chapter knowingly permits or encourages said juvenile offender to op-
15 erate a motor vehicle in violation of such suspension or restriction shall
16 be guilty of a misdemeanor. The court may impose conditions upon any per-
17 son found guilty under this section, and so long as such person shall comply
18 therewith to the satisfaction of the court, the sentence imposed may be sus-
19 pended.

20 SECTION 24. That Section 20-528, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 20-528. APPEALS. All orders or final judgments made by any court in
23 matters affecting a juvenile offender within the purview of this act may
24 be appealed by the juvenile offender or the state. A decision by the court
25 pursuant to section 20-508, Idaho Code, not to waive jurisdiction under
26 this act over the juvenile offender may be appealed by the state. Appeals
27 shall be reviewed as provided by the appellate rules of the supreme court of
28 Idaho, except no undertaking shall be required. Upon filing of the notice
29 of appeal, the district court shall take jurisdiction of the case and if the
30 juvenile offender is in detention shall promptly hold a hearing after the
31 filing of a request to determine whether the juvenile offender shall remain
32 in detention.

33 SECTION 25. That Section 20-530, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 20-530. REASSESSMENT OF COMMITTED JUVENILES OFFENDERS -- RECORDS --
36 FAILURE TO REASSESS. (1) The department shall make periodic reassessments
37 of all juveniles offenders committed to it for the purpose of determining
38 whether existing orders and dispositions in individual cases should be mod-
39 ified or continued in force. Assessments may be made as frequently as the
40 department considers desirable and shall be made with respect to every juve-
41 nile offender at intervals not exceeding one (1) year. Reports of periodic
42 reassessments made pursuant to this section shall be filed with the court
43 from which the juvenile offender was committed.

1 (2) The department shall keep written records of assessments, progno-
2 sis, and all orders concerning disposition or treatment of every juvenile
3 offender committed to it.

4 (3) Failure of the department to assess a committed juvenile offender
5 or to reassess him within one (1) year of a previous assessment shall not of
6 itself entitle the juvenile offender to discharge from the control of the de-
7 partment but shall entitle him to petition the committing court for an order
8 of discharge and the court shall discharge him unless the department satis-
9 fies the court of the need for further control.

10 SECTION 26. That Section 20-531, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 20-531. SECURE FACILITIES. (1) The department shall maintain and op-
13 erate secure facilities for the custody of juvenile offenders who pose a dan-
14 ger of serious bodily harm to others or who have engaged in a pattern of seri-
15 ous criminal offenses, and who cannot be controlled in a less secure setting.

16 (2) The department shall provide or make available to juvenile offend-
17 ers in secure facilities, instruction appropriate to the age, needs and
18 range of abilities of the juveniles offenders. An assessment shall be made
19 of each juvenile offender at the secure facility to determine abilities,
20 learning disabilities, interests, attitudes and similar matters. Training
21 in the development of competency and life skills designed to assist the ju-
22 venile offender in operating effectively within and becoming a contributing
23 member of the community shall be provided. Prevocational education shall be
24 provided to acquaint juvenile offenders with vocations, their requirements
25 and opportunities.

26 (3) The department shall place juvenile offenders committed to the de-
27 partment in a state or privately operated secure facility that provides hu-
28 mane care and developmental opportunities for the juvenile offender while
29 promoting accountability and community protection.

30 (4) The department shall adopt standards, policies and procedures for
31 the regulation and operation of secure facilities. Such standards, policies
32 and procedures shall not be inconsistent with law. Policies shall be promul-
33 gated as rules in compliance with chapter 52, title 67, Idaho Code.

34 SECTION 27. That Section 20-532, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 20-532. TERM OF COMMITMENT -- REVIEW AFTER COMMITMENT. A juvenile of-
37 fender committed to a secure facility shall remain until the juvenile of-
38 fender reaches nineteen (19) years of age, is retained for extended custody
39 pursuant to section 20-520(1)(r), Idaho Code, or is released or discharged.
40 A juvenile offender committed to a secure facility shall appear before the
41 department within ninety (90) days after commitment, for review of treatment
42 plans.

43 SECTION 28. That Section 20-532A, Idaho Code, be, and the same is hereby
44 amended to read as follows:

1 20-532A. ORDER FOR APPREHENSION AND DETENTION OF ESCAPEES FROM CUS-
2 TODAY. Upon a finding by the Idaho department of juvenile corrections that
3 a juvenile offender in the custody of the department has escaped from cus-
4 tody, a written order signed by the director or his designee shall be a suf-
5 ficient order for detention for any law enforcement officer to apprehend and
6 take into custody such person. It is hereby made the duty of all sheriffs,
7 police, constables, parole officers, prison officials and other peace offi-
8 cers, to execute such order. From and after the issuance of the detention or-
9 der and until taken into custody, the escapee shall be considered a fugitive
10 from justice. Upon apprehension, the juvenile offender shall be detained in
11 the closest available detention center and shall thereafter be transported
12 by the department as soon as possible or, at the discretion of the detaining
13 authority, the juvenile offender may be transported directly by that author-
14 ity to the department's nearest regional facility.

15 SECTION 29. That Section 20-533, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 20-533. RELEASE FROM CUSTODY OF THE DEPARTMENT. (1) The department
18 shall determine an appropriate date for release of the juvenile offender
19 from the custody of the department, based upon guidelines established by
20 the department. The department shall review and update policy guidelines
21 annually.

22 (2) Juvenile offenders may be released to their own home, to a residen-
23 tial community based program, to a nonresidential community based treatment
24 program, to an approved independent living setting, or to other appropriate
25 residences, but shall remain on probation until the probation is terminated
26 by the court. Following the release of a juvenile offender the court may con-
27 duct a hearing to review the juvenile's ~~offender's~~ conditions of probation
28 and determine whether existing conditions should be amended or eliminated or
29 additional conditions imposed.

30 (3) County probation officers shall enforce probation conditions and
31 supervise juvenile offenders while on probation. As authorized by court
32 order, probation officers may establish additional reasonable conditions
33 of probation with which the juvenile offender must comply. The juvenile
34 offender may move for a hearing before the court to contest any conditions
35 imposed by the probation officer. If the probation officer establishes
36 additional conditions of probation, the probation officer shall advise the
37 juvenile offender at the time such additional conditions are imposed of the
38 juvenile's ~~offender's~~ right to move the court for a hearing to contest those
39 conditions.

40 (4) When the department is considering release of a juvenile offender
41 committed to the department for confinement, the department shall notify the
42 prosecuting attorney of the county from which the juvenile offender was com-
43 mitted to confinement, the judge whose order caused the juvenile offender to
44 be committed to confinement and the victims of the juvenile offender's un-
45 lawful conduct.

46 SECTION 30. That Section 20-533A, Idaho Code, be, and the same is hereby
47 amended to read as follows:

1 20-533A. COMPLIANCE WITH OPEN MEETING LAW -- EXECUTIVE SESSIONS AU-
 2 THORIZED -- CONFIDENTIALITY OF RECORDS. (1) All meetings of the custody re-
 3 view board of the Idaho department of juvenile corrections shall be held in
 4 accordance with the open meeting law as provided in chapter 23, title 67,
 5 Idaho Code, provided however:

6 (a) Deliberations and decisions of the board concerning whether or not
 7 a juvenile offender shall be held in custody of the Idaho department
 8 of juvenile corrections for an extended period of time past his or her
 9 nineteenth birthday may be made in executive session; and

10 (b) Votes of individual members in custody decisions shall not be made
 11 public, provided that the board shall maintain a record of the votes of
 12 the individual members as required in subsection (2) of this section.

13 (2) A written record of the vote to retain the juvenile offender in cus-
 14 tody for an extended period of time by each board member in each case reviewed
 15 by that member shall be produced by the board. Such record shall be kept con-
 16 fidential and privileged from disclosure, provided the record shall be made
 17 available upon request to the governor, the chairman of the senate judiciary
 18 and rules committee and the chairman of the house of representatives judi-
 19 ciary, rules and administration committee for all lawful purposes.

20 (3) A board member or employee of the Idaho department of juvenile cor-
 21 rections who distributes to any person not specifically listed in this sec-
 22 tion any hearing information or records that are legally required to be kept
 23 confidential shall be guilty of a misdemeanor.

24 (4) Nothing contained in this section shall prevent any person from ob-
 25 taining the results of any action by the board or director of the Idaho de-
 26 partment of juvenile corrections without reference to the manner in which
 27 any member voted, and the board shall make such information public unless do-
 28 ing so would violate public records laws.

29 (5) Nothing contained in this section shall prevent the director, des-
 30 ignated staff of the director, the governor, the chairman of the senate ju-
 31 diciary and rules committee or the chairman of the house of representatives
 32 judiciary, rules and administration committee from attending any meeting,
 33 including any executive session, of the custody review board.

34 SECTION 31. That Section 20-535, Idaho Code, be, and the same is hereby
 35 amended to read as follows:

36 20-535. REVIEW OF PROGRAMS FOR JUVENILES OFFENDERS -- CERTIFICA-
 37 TION. The department shall annually review all state operated or state
 38 contracted programs which provide services to juvenile offenders and cer-
 39 tify compliance with standards provided by the department. Written reviews
 40 shall be provided to the managers of those programs. Based upon policies
 41 established by the department, those programs which are unable or unwilling
 42 to comply with approved standards may not be certified. Any person owning
 43 or operating a private facility who willfully fails to comply with the stan-
 44 dards established by the department shall be guilty of a misdemeanor.

45 SECTION 32. That Section 20-539A, Idaho Code, be, and the same is hereby
 46 amended to read as follows:

1 20-539A. DISTRIBUTION AND REPORTING REQUIREMENTS FOR STATE, OTHER
 2 PUBLIC AND PRIVATE CONTRACT FACILITIES. Each facility housing juvenile
 3 offenders in department custody, whether a state, other public or private
 4 contract facility, shall comply with the following requirements for dis-
 5 bursement and reporting:

6 (1) State facilities, upon receiving any moneys credited to a juvenile
 7 offender in its custody, shall deposit the funds in the juvenile corrections
 8 victim restitution fund pursuant to section 20-539, Idaho Code.

9 (2) Other public or private contract facilities housing juveniles
 10 offenders in department custody, upon receiving any moneys credited to or
 11 earned by a juvenile offender at the facility, shall directly distribute
 12 the moneys on or before the first day of each calendar quarter to the county
 13 court that committed the juvenile offender to department custody. Upon
 14 remitting moneys to a county on behalf of a juvenile offender, the facility
 15 shall report the direct distribution to the department for inclusion in the
 16 department's records.

17 SECTION 33. That Section 20-542, Idaho Code, be, and the same is hereby
 18 amended to read as follows:

19 20-542. JUVENILE CORRECTIONS FUND -- CREATION. There is hereby cre-
 20 ated in the state treasury, the juvenile corrections fund. Moneys in the
 21 fund shall be utilized by the department for construction and administra-
 22 tion of facilities under the jurisdiction of the department of juvenile
 23 corrections, for assistance to a county or series of counties in construct-
 24 ing, contracting for or administering detention facilities for juveniles
 25 offenders, to coordinate training for juvenile detention officers and/or
 26 juvenile probation officers, and for alternative programs designed to help
 27 juveniles avoid the traditional juvenile corrections system. All moneys in
 28 the fund may be expended only pursuant to appropriation by the legislature.

29 SECTION 34. That Section 20-547, Idaho Code, be, and the same is hereby
 30 amended to read as follows:

31 20-547. CONSTRUCTION OF ACT -- CITATION OF ACT -- OTHER CODE REFER-
 32 ENCES CONSTRUED. This act shall be liberally construed to the end that the
 33 legislative policy expressed herein is achieved. This act may be cited as
 34 the "Juvenile Corrections Act of 1995." ~~On and after the effective date of~~
 35 ~~this act, any citation in the Idaho Code to chapter 18, title 16, Idaho Code,~~
 36 ~~shall be understood and construed as a citation to chapter 5, title 20, Idaho~~
 37 ~~Code, unless the context otherwise requires.~~

38 SECTION 35. That Section 20-548, Idaho Code, be, and the same is hereby
 39 amended to read as follows:

40 20-548. COMPENSATION -- AMOUNT -- CREDITING ACCOUNT OF JUVENILE
 41 OFFENDER -- JUVENILES OFFENDERS NOT EMPLOYEES. (1) Each juvenile offender
 42 who is engaged in productive work under the jurisdiction of the director
 43 of the department of juvenile corrections may receive for this work such
 44 compensation as the director shall determine, to be paid out of any funds
 45 available in the department of juvenile corrections competency development

1 account. After payment of restitution pursuant to section 20-538, Idaho
 2 Code, compensation shall be credited to the account of the juvenile offender
 3 to be used for payment of fines, reimbursement to the department of juvenile
 4 corrections for expenses directly related to that juvenile offender, and
 5 upon certain circumstances, payment to the juvenile offender upon release
 6 from the department of juvenile corrections.

7 (2) No juvenile offender compensated under this act shall be considered
 8 an employee of the state or the department of juvenile corrections, nor shall
 9 any juvenile offender come within any of the provisions of the worker's com-
 10 pensation law, or be entitled to any benefits thereunder whether on behalf of
 11 himself or any other person.

12 SECTION 36. That Section 20-549, Idaho Code, be, and the same is hereby
 13 amended to read as follows:

14 20-549. CURFEW VIOLATIONS -- CITATION -- NOTIFICATION. Violation by
 15 a juvenile offender of a curfew established by a municipal or county or-
 16 dinance shall be punishable by a fine not to exceed three hundred dollars
 17 (\$300), detention, or both. Fines shall be deposited in the county juvenile
 18 justice fund of the county where the violation occurred, or if such a fund
 19 has not been established, then in the current county expense account for
 20 juvenile corrections purposes in the county where the violation occurred.
 21 The imposition of detention shall be subject to the provisions of sections
 22 20-520(1) (~~bc~~) and 20-521, Idaho Code. Detention of a juvenile offender in
 23 a county jail or detention center for violation of a curfew is prohibited
 24 unless the juvenile offender is an habitual status offender as defined in
 25 section 20-521, Idaho Code.

26 Any peace officer may issue a citation for violation of a curfew that
 27 shall thereafter proceed under the juvenile corrections act in the same man-
 28 ner as though the violation was charged by a petition. Citations shall be is-
 29 sued on the Idaho uniform citation form. The peace officer issuing a curfew
 30 citation may detain the violator and at the time the citation is issued shall
 31 make a reasonable effort to obtain the endorsement of the juvenile's par-
 32 ent or legal guardian on the citation. If the endorsement of a parent or le-
 33 gal guardian cannot be obtained with the exercise of reasonable diligence, a
 34 copy of the citation shall be hand delivered or mailed to the juvenile's par-
 35 ent or legal guardian by a peace officer at least seven (7) days prior to the
 36 date set for the juvenile's appearance. The citation shall provide a date
 37 certain for the appearance before a magistrate of the juvenile and parent or
 38 legal guardian.

39 When sentencing a juvenile offender for violating a curfew, the court
 40 may also enter any order authorized in section 20-520, Idaho Code. The court
 41 shall have jurisdiction over the parent or legal guardian of the violator
 42 pursuant to section 20-522, Idaho Code.

43 SECTION 37. That Section 39-1202, Idaho Code, be, and the same is hereby
 44 amended to read as follows:

45 39-1202. DEFINITIONS. For the purposes of this chapter:

46 (1) "Board" means the Idaho board of health and welfare.

1 (2) "Child care" means that care, control, supervision or maintenance
 2 of children for twenty-four (24) hours a day which is provided as an alterna-
 3 tive to parental care.

4 (3) "Child" means an individual less than eighteen (18) years of age who
 5 is not enrolled in an institution of higher education.

6 (4) "Children's agency" means a person who operates a business for the
 7 placement of children in foster homes or for adoption in a permanent home
 8 and who does not provide child care as part of that business. Children's
 9 agency does not include a licensed attorney or physician assisting or pro-
 10 viding natural and adoptive parents with legal services or medical services
 11 necessary to initiate and complete adoptive placements.

12 (5) "Children's camp" means a program of child care at a location away
 13 from the child's home which is primarily recreational and includes the
 14 overnight accommodation of the child and is not intended to provide treat-
 15 ment, therapy or rehabilitation for the child.

16 (6) "Children's institution" means a person who operates a residential
 17 facility for children not related to that person if that person is an indi-
 18 vidual, for the purpose of providing child care. Children's institutions
 19 include, but are not limited to, foster homes, maternity homes, children's
 20 therapeutic outdoor programs, or any facilities providing treatment, ther-
 21 apy or rehabilitation for children. Children's institutions do not include:
 22 (a) facilities which provide only daycare as defined in chapter 11, title 39,
 23 Idaho Code; (b) facilities and agencies including hospitals, skilled nurs-
 24 ing facilities, intermediate care facilities, and intermediate care facili-
 25 ties for people with intellectual disabilities licensed pursuant to chapter
 26 13, title 39, Idaho Code; (c) day schools; (d) individuals acting in an ad-
 27 visory capacity, counseling a child in a religious context, and providing no
 28 child care associated with the advice; (e) the occasional or irregular care
 29 of a neighbor's, relative's or friend's child or children by a person not or-
 30 dinarily engaged in child care.

31 (7) "Children's residential care facility" means a children's institu-
 32 tion, excluding:

33 (a) Foster homes;

34 (b) Residential schools;

35 (c) Children's camps.

36 No facility expressly excluded from the definition of a children's institu-
 37 tion is included within the definition of a children's residential care fa-
 38 cility.

39 (8) "Children's therapeutic outdoor program" is a program which is de-
 40 signed to provide behavioral, substance abuse, or mental health services to
 41 minors in an outdoor setting. This does not include children's camps, church
 42 camps, or other outdoor programs primarily designed to be educational or
 43 recreational, such as Boy Scouts, Girl Scouts, 4-H or sports camps.

44 (9) "Continued care" means the ongoing placement of an individual in a
 45 foster home, children's residential care facility, or transitional living
 46 placement who reaches the age of eighteen (18) years but is less than twenty-
 47 one (21) years of age.

48 (10) "Day school" means a public, private, parochial or secular facil-
 49 ity offering an educational program in which the children leave the facility

1 each day at the conclusion of the academic, vocational or school supervised
2 activities.

3 (11) "Department" means the state department of health and welfare.

4 (12) "Director" means the director of the department of health and wel-
5 fare.

6 (13) "Foster care" means child care by a person not related to the child,
7 in lieu of parental care, in a foster home.

8 (14) "Foster home" means a home which accepts, for any period of time,
9 with or without compensation, one (1) or more children who are not related
10 to the foster parent as members of the household for the purpose of providing
11 substitute parental care.

12 (15) "Group care" means foster care of a number of children for whom
13 child care in a family setting is not available or appropriate, in a dormi-
14 tory or cottage type setting, characterized by activities and discipline of
15 a more regimented and less formal nature than found in a family setting.

16 (16) "Juvenile detention" is as defined in section 20-502(~~65~~), Idaho
17 Code, of the juvenile corrections act.

18 (17) "Juvenile detention center" means a facility established pursuant
19 to sections 20-517 and 20-518, Idaho Code.

20 (18) "Person" includes any individual, group of individuals, associa-
21 tion, partnership, limited liability company or corporation.

22 (19) "Placement" means finding a suitable licensed foster home or suit-
23 able adoptive home for a child and completing the arrangements for a child to
24 be accepted into and adjusted to such home.

25 (20) "Relative" means a child's grandparent, great grandparent, aunt,
26 great aunt, uncle, great uncle, brother-in-law, sister-in-law, first
27 cousin, sibling and half-sibling.

28 (21) "Representative" means an employee of the state department of
29 health and welfare.

30 (22) "Residential facility" means any facility where child care is pro-
31 vided, as defined in this section, and which provides day and night accommo-
32 dation.

33 (23) "Residential school" means a residential facility for children
34 which:

35 (a) Provides a planned, scheduled, regular, academic or vocational
36 school program for students in the elementary, middle or secondary
37 grades as defined in section 33-1001, Idaho Code; and

38 (b) Provides services substantially comparable to those provided in
39 nonresidential public schools where the primary purpose is the educa-
40 tion and academic pursuits of the students; and

41 (c) Does not seek, receive or enroll students for treatment of such spe-
42 cial needs as substance abuse, mental illness, emotional disturbance,
43 developmental disability or intellectual disability; and

44 (d) Is not:

45 (i) A college or university; or

46 (ii) A children's camp as defined in this section; or

47 (iii) A public or private day school in which the children leave
48 the facility each day at the conclusion of the academic, voca-
49 tional and school supervised activities.

1 (24) "Transitional living" means living arrangements and aftercare
2 services for children, or as continued care, to gain experience living on
3 their own in a supportive and supervised environment prior to emancipation.